



United States Department of Agriculture
Forest Service

Francis Marion National Forest

Draft Forest Plan Assessment

Francis Marion National Forest, Berkeley and Charleston Counties, South Carolina

Section 14: Land Status and Ownership, Land Use and Access Patterns

- **14.1.2_Land Status and Ownership**
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Berkeley and Charleston Counties, South Carolina**

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14 Land Status and Ownership, Use and Access Patterns

14.1.1.1 Preliminary Findings

Land Status and Ownership. The Forest has identified current ownership as well as tracts with priorities to acquire and convey. The greatest potential is for collaboration to purchase or exchange tracts within the Forest. A total of 1,037 acres have been acquired since 1996 in cooperation with The Nature Conservancy, Charleston County Greenbelt Funds, and willing property owners within the Forest.

Land Use. The Forest currently manages 108 special uses issued for land use within the Forest boundary by adjacent landowners, utilities, and commercial/non-commercial entities (road uses and recreation events). The 1996 FEIS stated there were 137 special use permits. This number fluctuates due to the issuance, expiration and termination of various permits, the seasonal nature of temporary permits, and the consolidation of multiple permits to a single permit holder where appropriate. There is a very high potential for continued and increased requests which will be received on a case-by-case basis and managed through the special use permit process. There is also the potential for an increased number of encroachments and trespass on national forest lands where the use of the Forest by adjacent landowners and Forest users is recognized.

There is one major corridor bisecting the Forest that supports a Santee Cooper utility line. It is 29.12 miles long and varies in width between 100 and 200 feet. This corridor is also the location of a permitted Carolina Gas pipeline which is 21.4 miles long. This coincident use is an example of where a designated utility corridor can support multiple major uses and impact a defined acreage in the Forest to meet public demand. Other utilities such as telephone, fiber optic and cable permitted on the Forest are located coincident to each other and generally along road systems. There is no carrying capacity for recreation uses (trails, waterways, recreation sites).

Access Patterns. Access is identified on the Forest through roads and trail management systems as well as special uses issued for easements and commercial road use. Access includes permits, FLPMA and FRTA road easements, and utility rights-of-way. There is a potential for increased requests which will be managed on a case-by-case basis through the special use permit process.

14.1.1.2 Introduction

This assessment should identify and evaluate available information relevant to the plan area for land status and ownership, use, and access patterns (36 CFR 219.6(b)).

14.1.2 Land Status and Ownership

14.1.2.1 Existing Information

Land ownership is the basic pattern of public and private ownership within the proclamation boundary. Land ownership is defined as the condition of the title of land or interest in land under the jurisdiction of the Forest Service. The following conditions are also included under this definition: the manner in which these lands came into Federal ownership; encumbrances and restrictions which affect the administration of the land; interests owned by the government in private lands; and the interest in government lands held by others.

As established in 36 CFR 200.12, the Land Status Records System is the official repository for all realty records and land title documents for national forest system lands. The records system is maintained at the regional office level and is the electronic record for realty information backed up by hard copy records maintained at the region, administrative units, Federal Records Center, and National Archives Records Administration offices.

The Land Status Records System records include an accurate account of acreage, condition of title, administrative jurisdiction, rights held by the United States, administrative and legal use restrictions, encumbrances, and access rights on lands and interests in land in the national forest system.

Maintenance of the Land Status Records System includes the final review, processing, posting, and permanent retention of records reflecting any change in land ownership status. The compilation includes notation and filing of laws and Executive orders affecting land ownership and jurisdiction, all land ownership adjustments (exchange, purchase, donation, transfer, boundary modification, title claims, sales, grants and excess property), use restrictions (rights-of-way acquired or granted, reservations, outstanding rights, partial interests, easements), and changes attributable to resurveys. The records system and such title and realty records shall be made available for field personnel and the public.

The Land Areas of the National Forest System Report is an annual publication that tracks national forest system ownership and provides the latest statistics on the lands administered by the Forest Service. The report provides acreage figures for national forest system lands in a variety of ways such as by forest, state, county, congressional district, and for wilderness and other special designations (scenic areas, NRAs, experimental forests).

Land status can also include zoning for adjacent private lands. Zoning for private lands is usually provided under state, county, and municipal laws through comprehensive plans for local use and zoning.

Zoning on private lands within the plan area of the Francis Marion National Forest in Berkeley County is covered by Berkeley County South Carolina 2010 Comprehensive Plan and Berkeley County South Carolina Code of Ordinances. Zoning on private lands within the plan area of the Francis Marion National Forest in Charleston County is covered by Charleston County South Carolina Comprehensive Plan and Charleston County South Carolina Zoning and Land Development Regulations Ordinance.

The Forest supervisor's office created a Land Ownership Adjustment Strategy in 2005 that includes both the Francis Marion and Sumter National Forests. Prepared with interdisciplinary input from each district, the purpose of the strategy was to establish goals to create the optimum landownership pattern for each forest. The Land Ownership Adjustment Strategy prioritized areas within the Forest that would be desirable to acquire or convey using a high, medium, or low priority designation. An example is Fairlawn Plantation which remains the largest private inholding within the proclamation boundary of the Forest. The strategy serves as a guide to assist in prioritizing land adjustment activities.

Some of the goals contained on the Land Ownership Adjustment Strategy are to consolidate fragmented lands; dispose of isolated lands that have lost national forest character and have become difficult to manage; and encourage conservation organizations, state, and local governments and other large landowners to acquire conservation easements on no-Federal lands to limit development adjacent to the Forest (2008 Forest Plan Review).

14.1.2.2 Current Condition and Trends

The Francis Marion National Forest is comprised of approximately 259,537 acres (based on 2012 GIS, Basic Surface Area layer).

The Forest is experiencing the effects of urbanization at a higher level than other Forests in the Southern Region. Acquisition funds have been very limited while timber companies have been divesting themselves of large acreages near the Forest. Land acquisition has become increasingly difficult and private landowners are less willing to allow public access across their lands (2008 Forest Plan Review).

One of the greatest trends currently affecting the management of land ownership status and land use and access patterns is the escalating housing development on private rural lands adjacent to existing national forest. As more people choose to live at the urban fringe and in scenic, rural areas, open space lands such as farms, including those adjacent to national forest system, are being lost to development (Forest Service 2007). Development on adjacent properties has led to an increased number of issues with trespass, illegal trails, title claims, encroachments and law enforcement problems such as poaching, illegal posting of national forest lands, and user conflicts.

One special consideration for the acquisition of property adjacent to national forest lands is known as “heirs property,” where all family members own the land as “tenants in common” which gives each family member undivided rights. When a family member dies, the ownership passes down to living heirs who are determined by probate laws. When probate is not completed within the time required by the State, the property becomes “heirs property” and the court must determine how to divide the land among the heirs.

Traditionally, heirs property has been managed by “word of mouth” to verbally transfer interest to other family members. Quitclaim deeds have been used in an attempt to transfer interest between family members and are used when the title holder is deceased. Numerous legal and financial issues can impact the transfer of heirs property which can result in the loss of ownership. If any one of the heirs cannot pay the others for their interest in the land, the court can sell off the land often at reduced prices. This can create a situation where developers acquire these tracts for minimum prices and create islands of development within the proclamation boundary of the Forest (Gullah Geechie Corridor Management Plan 2012).

Due to increasing urbanization of towns such as Mt. Pleasant, the City of Charleston, and Moncks Corner, annexation and zoning have become an increasing concern to the Forest and the Forest’s ability to manage within an “urban interface.” These annexation proposals from local communities can create the potential for user conflicts on the Forest and could raise issues of Federal/state supremacy.

Even within national forest boundaries, the number of housing units on privately held lands increased from 0.5 to 1.5 million between 1950 and 2000 (Stein et al. 2007). It is estimated that between the years 2000 and 2030, a substantial increase in housing density will occur on more than 21.7 million acres of rural private land (8 percent of private land) located within 10 miles of national forest system lands (Stein et al. 2007). Residential development projections for private lands have increased over the past 20 years and are expected to continue to increase as more people wish to move to the coastal areas of South Carolina and more specifically outside the urbanized areas associated with cities such as Charleston and Mt. Pleasant.

Berkeley County has seen an increase in population of 83.2 percent for the period 1980 to 2009. This rise in population has led to increased need and requests for the National Forest to provide access and utilities to support the growth.

Berkeley County is the third largest land base in the State of South Carolina. Lands within the National Forest proclamation boundary include conservation/open lands, single family, and open areas. Tracts adjacent to National Forest include private, commercial, and many tracts considered “heirs property.” The heir properties have been passed down generationally without clear title.

In Berkeley County, the majority of lands within the national forest system proclamation boundary are zoned “constrained residential.” The emphasis is towards agricultural uses and this zoning considers the introduction of municipal water and opportunity for community septic systems in lieu of sewer systems. Also, along the edges of the proclamation boundary, there are communities zoned “low density suburban,” where as many as four units per acre are allowed and the introduction of water and sewer may occur to support development (Berkeley County Comprehensive Plan).

Charleston County had a population of 309,969 in 2000 with a projected increase of 15 percent to 357,127 in 2010.

Charleston County as a whole has lands designated as approximately 14 percent “open space”, 4 percent “wetlands” and 12 percent “agriculture.” Most specifically, lands adjacent to the National Forest are primarily considered agricultural and wetlands. There are two rural municipalities, Awendaw and McClellanville, within the National Forest boundary and located along the U.S. Highway 17 corridor. This corridor is recognized as a special planning area (Charleston County Comprehensive Plan).

Partners: Several local and community groups have been active in support of the activities of the Francis Marion National Forest. They include the Sewee Association, a friends group for both the Forest and Cape Romain NWR, the Sewee to Santee Task Force, and the Sewee Summit, whose mission is “Working together to ensure the future of the Francis Marion National Forest, the Cape Romain National Wildlife Refuge, and the culture and quality of life of the people who live there.” Most recently, the Sewee Summit formed the “Bulls Bay Historic Passage Chamber of Commerce,” to promote a vision of “A healthy rural community deeply rooted in its long history, in harmony with and enriched by the extraordinary natural resources that surround it.” The Nature Conservancy is a long-standing partner working with the Forest not only for land acquisition, but habitat improvement to include prescribed fire management and restoration of the Longleaf Pine Wiregrass Ecosystem.

With the increase of development on adjacent private lands and inholdings, forests face management challenges associated with the control of property lines. Limited funding, resources, and workforce have not kept pace with the increased development on adjacent private lands. It is estimated that control of property boundary lines for public land has been heavily compromised because of infrequency and reduced scheduled maintenance, as well as encroachment and trespass by adjoining landowners.

14.1.2.3 Information Needs

An accurate GIS boundary layer is needed and is valuable to track the miles of property boundary for monitoring and maintenance. This tool is also valuable for tracking

encroachments/trespasses as identified. The Francis Marion currently has an Automated Lands Project layer maintained by the Status Department of the Region 8 lands staff.

14.1.3 Land Use

14.1.3.1 Existing Information

Land use is administered by special use authorizations, which include permits, leases, and easements that allow occupancy, use, rights or privileges on national forest system lands. Special use authorizations are legal instruments whose terms and conditions are fully enforceable when reasonable and consistent with law, regulation, and policy. The mission of the special uses program is to manage the use and occupancy of national forest system land in a manner that protects natural resource values, promotes health and safety, and is consistent with Forest land and resource management plans.

Currently, the Forest Service uses the Special Uses Data System to create and administer special use authorizations. The data system is supported by hard copy files at district, Forest, and in some cases, regional offices. A component of the Special Uses Data System is special use permit billing and it is the system of record for documenting compliance, insurance, inspections and reporting. The information available from the system can be somewhat undependable depending on the quality of the data input.

In April 2004, the U.S. Department of Commerce published, *Improving Rights of Way Management Across Federal Lands: A Roadmap for Greater Broadband Deployment*. The intent of the report was to identify and recommend changes in Federal policies, regulations, and practices to improve the process of granting rights-of-way for broadband communication networks on lands under Federal jurisdiction.

In June 2011, the Office of Inspector General (OIG) completed an audit report, *Forest Service Administration of Special Use Program*. The OIG initiated the audit to assess the effectiveness of the special use program and to determine if Forest Service efforts are meeting program objectives. Access is defined as the legal rights-of-way acquired by the Forest Service across non-national forest system land for the management and use of national forest system land. (Access granted by the Forest Service to others across national forest system land is covered in section 14.1.3 “Land Use”).

As established in 36 CFR 200.12, the Land Status Records System is the official repository for all realty records and land title documents for national forest system lands, including acquired rights-of-ways (see full discussion of Land Status Records System in section 14.1.2 “Land Status and Ownership”).

In April 1992, the General Accounting Office (GAO) completed a report, *Federal Lands Reasons for and Effects of Inadequate Public Access*. The report responded to a congressional request for the GAO to complete a review of the adequacy of public access to land managed by the Forest Service and the BLM.

14.1.3.2 Current Conditions and Trends

Development of residential areas adjacent to the Forest has increased the demand for utility services prompting an increase in special use permits. The demand for special use authorizations is higher where public and private boundaries meet. Private landowners often require an authorization from the Forest Service for private road access, waterlines, and other utilities. The

need to grant additional authorizations increases as private lands adjacent to or within the national forest system boundary are subdivided. This increases the workload of the special uses program. At present, the Forest Service lacks the resources it needs to manage the special uses program (OIG 2011). An increase in special uses also influences the management of the plan area because authorizations become an encumbrance on the land that may limit resource management decisions.

An additional driver of change in land uses is the ever growing demand of technology in the field of communications. The request for communications sites on national forest system lands has increased as these services expand to remote locations. Communication sites are critical for the wireless industry, which has a growing need for additional antenna sites as well as fiber optic cable corridors. This includes remote communities once considered too isolated for the investment of infrastructure capital (Federal Rights-of-Way Working Group 2004). There is also a need to improve and create more reliable sources of electricity to locations within the Forest boundary which can lead to more acreage encumbered by utility rights of way within the Forest.

Special use permit requests fluctuate. Requests for easements and right-of-way permits seem to be dictated by the economy or the need to divide family property among heirs. Most recently, the requests for easements has been consistent and steady with landowners needing to legitimize or legalize access in order to sell property or obtain loans.

There has been increased interest in special use permits for recreation events and activities. As more of the population looks to find nature based experiences, they are gravitating to organized events such as adventure races, foot races, and outfitter guided experiences. It is expected for this trend to continue in the foreseeable future.

There are occasional requests for research permits and mitigation bank projects on the Forest.

Utility requests have increased in recent years to facilitate the need to provide electricity, telephone, fiber optic, water and amenities to private landowners within the Forest boundary. The Forest is currently working with Central Electric Cooperative, Inc., and the USDA Rural Utility Services to evaluate a route (including national forest system lands) to provide more reliable electricity to the McClellanville area.

14.1.3.3 Information Needs

In 1999, the Forest Service issued guidance encouraging the Forests to consider including appropriate programmatic actions and decisions within forest's plan revisions that will improve efficiencies in project-level special use procedures and customer service. This direction was reiterated after the 2011 OIG audit of the Forest Service special use program in a Washington Office memo dated September 19, 2011 (Holtrop Memorandum 2011). Forest planning decisions that could improve special uses management efficiencies include land allocations for long-term use or occupancy, such as communication site designations. Other planning decisions to consider include establishing management standards and guidelines within each land allocation and Forestwide or areawide standards and guidelines for special uses.

For planning purposes, it is necessary to evaluate current and potential communication sites on all forests to determine if they should be designated for plan revision. Designating communication sites in forest plan revision is desirable to help guide decisions related to the expansion of existing permitted sites and the authorization of new sites. As technology in the communications industry continues to expand, there will be additional demands on the Forest Service to accommodate these uses.

Development of a GIS layer that shows the location of all special use authorizations would also be useful. This layer would highlight the relationship of permitted uses to landownership patterns. GIS layers are not necessarily required to develop the Forest plan, but would be a valuable tool for drawing conclusions related to land uses in the Forest plan and determining if standards and guides would be helpful in specific areas.

14.1.4 Access Patterns

14.1.4.1 Existing Information

Increased housing density in areas adjoining national forest system lands can increase the potential for encroachment, trespass, and unauthorized use and occupation of the public's land and resources (Stein et al. 2007). Encroachments onto national forest system lands can transform publicly owned land into privately claimed land for uses such as pastures, garbage dumps, lawns, garden spots, personal storage sites and in some cases, garages or portions of homes and garages. Another significant impact from development on adjoining private lands includes illegal private road building and user-created off-highway trails on national forest system lands. Illegal horse, biking, and hiking trails also originate from adjacent developed private lands.

The Francis Marion National Forest is comprised of approximately 259,537 acres. The planning areas consist primarily of a large percentage of national forest lands with several local communities and private ownerships dispersed throughout the boundary. The current acreage compares with 249,500 acres of national forest system lands recorded in 1996 (FEIS).

The Forest is bounded to the north by the Santee River, to the east by Cape Romain National Wildlife Refuge, Bulls Bay and the Atlantic Ocean, to the south by the Wando River, and to west by lands adjacent to the Cooper River, Moncks Corner, Lake Moultrie and St. Stephen. The Forest boundary includes 588 miles of property boundary currently managed by the Forest.

Based on a recent 6-year average, an average of 4.66 miles of boundary lines have been maintained annually and 1.38 miles of boundary have been surveyed annually.

The majority of private lands adjacent to the National Forest are owned by private individuals. The large blocks of timber company lands formerly found within the boundary and adjacent to national forest system lands have been sold to private or corporate ownership within the past 10 years. The Forest does share its eastern boundary with the U.S. Fish and Wildlife Service, Cape Romain National Wildlife Refuge. This joint boundary is unique along the Atlantic Coast, and presents opportunities for increased natural resource management objectives.

Most of the land comprising the Francis Marion National Forest was acquired through individual purchases from timber companies and willing sellers beginning in the 1930s. Condemnation was used predominantly as a means to clear poor title on much of the privately held lands. There are occasional requests to "give back" or deed back lands to heirs of former landowners where they feel the government acquired a cemetery or home place without legal authority.

Land ownership status can change over time through land adjustments. Land adjustments involve transfer of fee title, resulting in a change in legal ownership. Land adjustments can result from land exchange, purchase, donation, sale, transfer condemnation and interchange. In recent years, the Forest has used its Land Ownership Adjustment Strategy to consolidate ownership, reduce miles of landline maintenance, and more effectively manage its resources.

Ownership of national forest system lands within the Francis Marion planning area has changes since the last planning cycle. Since 1995 there has been a net increase in national forest system ownership of 1,037 acres. The gain in National Forest acreage can be attributed to the purchase, exchange, and donation of acres within the Forest boundary. Funding from the Land and Water Conservation Fund and partners such as The Nature Conservancy and Charleston County Greenbelt have made these acquisitions possible.

The Forest Service's special use program authorizes the use and occupancy of national forest system lands that provide a benefit to the general public and protect public and natural resource values. Currently, there are over 74,000 authorizations on national forest system lands for over 181 types of uses (OIG 2011). Uses in the lands program include utility transmission lines, telecommunications, research, military training activities, and granting public and private road rights-of-way.

At the time of this assessment, there were 108 special use authorizations issued within the planning area. This does not include 8 to 12 temporary recreation special use permits and 5 to 10 temporary non-commercial group use and research special use permits annually.

Table 14-1. Special use authorizations

| Type of Use | Number of Authorizations |
|--------------------------------|--------------------------|
| Research | 1 |
| Playground | 2 |
| Research, cultural resources | 1 |
| Churches/cemeteries | 10 |
| Group use | 5–10 average |
| DOT/FRTA/FLPMA easements | 51 |
| Outfitter guide | 3 |
| Recreation events | 8–12 average |
| Telecommunications/fiber optic | 7 |
| Parking | 2 |
| Fence | 2 |
| Railroad | 1 |
| Water quality monitoring | 1 |
| Museum/visitor center | 1 |
| Mineral | 2 |
| Oil and gas | 1 |
| Sewage/water transmission | 17 |
| Signs | 2 |

Note: Numbers can fluctuate regularly with the issuance of new permits, renewals, closures, and terminations.

The majority of existing special use permits is for transportation-related uses. There are 52 transportation permits and easements as follows: 3 Department of Transportation Easements, 1 Railroad right of way, 6 Federal Roads and Trail Act (FRTA) easements, 24 Federal Land Policy and Management Act (FLPMA) easements, and 18 FLPMA permits. In addition, there are 42 FLPMA permits and FLPMA easements issued to private landowners for access to adjacent lands. As requested, Temporary Road Use Permits are issued for commercial haul on national forest system roads. Other permits are issued as follows: 5 recreation permits (including outfitter guides); 8 to 12 recreation events and 5 to 10 annual group use permits; 1 research permit; 10 churches/cemeteries; and 7 telecommunication permits.

During the process of developing the National Forest road and trail system across the country, the Forest Service acquired approximately 30,000 rights-of-ways across other ownerships. There are 20 acquired rights-of-ways on the Francis Marion and several temporary rights-of-ways secured for intermittent access needs. It is the goal of the Forest to attempt to secure all future rights-of-ways as permanent through fee or reciprocal rights-of-way easements.

Currently, the Forest has 575.6 miles of system roads and 177 miles of system trails throughout the Forest.

There are increasing demands on the use of Forest System roads by local residents to ingress and egress homes and subdivisions as well as by busses and trucks serving local schools and businesses. Of the 575.6 miles of system roads on the Francis Marion National Forest, 24.5 miles are maintained cooperatively by Berkeley County (Cooperative Road Use Agreement dated September 26, 1977) and 17.4 maintained by Charleston County (Cooperative Road Use Agreement dated March 27, 1985).

It is assumed that the Forest has acquired legal access from private landowners in the majority of the main access roads/entry points to national forest system lands currently being used for public access and management of national forest system lands. To determine if this is the case, an in-depth access analysis would need to be completed, which would require substantial time and funding for a qualified lands specialist to complete.

There are known access points to the Forest (both trail and road) where permanent legal access for improved recreational and administrative access would be valuable. Complex right-of-way acquisition procedures create obstacles to completing access needs within established project timeframes.

14.1.4.2 Current Condition and Trends

In 1991, the Forest Service issued guidance to field offices to improve access planning efforts. The guidance required each forest plan to include a transportation plan that would identify the access rights needed to support the resource objectives of the respective forest plan (GAO 1992).

To accomplish the goals set out in this guidance, it is necessary to develop an inventory of roads and trails that provide access to the Forest and evaluate if the Forest has legal and physical access on them. A component of the inventory is to verify legal access and physical access is currently being held. The inventory should review access and perfect title where needed on existing roads and trails to ensure access is not lost in the future. In addition, the inventory should identify areas where legal and physical access would ensure public access as well as the ability to manage national forest system lands in the future. The Francis Marion National Forest began an inventory, but due to the lack of funds the inventory has not been completed.

Additional road mileage gained through ongoing land acquisitions has increased the deferred maintenance backlog. Most, if not all, of these new roads have been placed into closed, maintenance level 1 roads.

Continual reduction in funding has resulted in choices on the level and degree of maintenance needed throughout the Forest road system. Such choices included whether to decommission or close a road, conduct spot surfacing, provide maintenance to surface drainage, culvert placement/replacement, bridges and aggregate surfacing. Roadside mowing and trimming heavy vegetation and other measures are still necessary for safety but limited funding is not meeting the need.

The Forest is currently reviewing all existing system roads in its transportation analysis process.

Private landowners' unwillingness to grant unrestricted public access across their land has increased as the public's use of Federal land has increased (GAO 1992). Factors contributing to inadequate access were private landowners' concerns about vandalism, potential liability, and desire for privacy or exclusive personal use (GAO 1992).

Though the GAO report is somewhat dated, private landowners cite the same reasons today for their unwillingness to grant permanent public access across their land. Combine this with the trend of development of subdivision of lands adjacent to the Forest, acquiring legal access becomes much more costly and difficult.

Where former access across national forest system lands was never perfected, it is becoming increasingly difficult to work with private landowners to gain permanent legal access. This

limits management options as well as the public's opportunities to access national forest system lands.

14.1.4.3 Information Needs

Prescribed fire management on national forest system lands adjacent to residential or commercial centers needs additional review. Where there is a heavy urban interface with national forest system lands, the ability to use prescribed fire as a tool for understory management is almost non-existent. The Forest needs to continue to evaluate cooperative means to use prescribed fire or other understory reduction tools to manage these areas.